

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION
4:09-CR-52-D-1

UNITED STATES OF AMERICA

v.

TORRI ALBERT SINCLAIR,

Defendant.

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ORDER

This case came before the court today for a hearing on the competency of defendant to participate in the proceedings against him relating to a pending motion (D.E. 55) for revocation of his supervised release filed 29 January 2015. At the hearing, the government was represented by Assistant United States Attorney Leslie K. Cooley and defendant, who was present in the courtroom, was represented by Assistant Federal Public Defender Susan M. Umstead. The court advised defendant of his rights under 18 U.S.C. § 4247(d).

The government offered into evidence the evaluation report, dated 4 May 2015 and filed 15 May 2015 (D.E. 69) ("Evaluation Report"), which was prepared at the Metropolitan Correctional Center in New York, New York pursuant to the order for a competency evaluation of defendant entered 31 March 2015 (D.E. 66). The Evaluation Report determined that defendant is incompetent to participate in the pending proceedings due to schizophrenia, multiple episodes and recommended a period of mental health treatment to restore his competency pursuant to 18 U.S.C. § 4241(d). (Evaluation Rep. 14 ¶¶ 1, 3). The court admitted the Evaluation Report into evidence without objection. Neither the government nor defense counsel contest the finding in the Evaluation Report that defendant is incompetent (*see* Gov.'s Mem. (D.E. 72); Def.'s Mem. (D.E. 74)), and neither party presented further evidence at the hearing.

After consideration of the Evaluation Report and the other information presented at the hearing, the court FINDS by a preponderance of the evidence, pursuant to 18 U.S.C. § 4241(d), that defendant is presently suffering from a mental disease rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him and to assist properly in his defense.

IT IS THEREFORE ORDERED, pursuant to 18 U.S.C. § 4241(d), as follows:

1. Defendant is hereby committed to the custody of the Attorney General.
2. The Attorney General shall hospitalize defendant for treatment in a suitable facility for such a reasonable period of time as is necessary to determine whether there is a substantial probability that in the foreseeable future he will attain the capacity to permit the proceedings to go forward. The specified period shall not exceed four months, subject to paragraph 5 below and possible extension pursuant to 18 U.S.C. § 4241(d)(2).
3. Nothing in this order shall authorize involuntary medication of defendant.
4. The facility to which defendant is assigned shall provide defendant's counsel, upon her request, the opportunity to meet with defendant in a confidential setting, that is, one in which counsel and defendant may engage in privileged conversation outside the presence of correctional officers and others, as frequently as necessary for the effective representation of defendant in this case.
5. Defendant shall remain at the facility to which he is assigned until his release is authorized by order of this court.
6. No later than 9 July 2015, counsel shall file a joint report on the status of defendant's placement and treatment. The report shall include: the identity of the facility at which defendant has been placed for treatment; the expected date of completion of the treatment

period if not already completed (to the extent reasonably obtainable) or, if completed, the date of completion; and if not already submitted to the court, the expected date of submission of the report on the treatment of defendant (to the extent reasonably obtainable).

7. No later than 9 September 2015, counsel shall file another joint report that shall include any information required in the preceding paragraph that was not provided in the initial joint report and any changes in the information that was provided in the initial joint report.

SO ORDERED, this 9th day of June 2015.



James E. Gates
United States Magistrate Judge